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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KENDALL, CHUCK O

ART UNIT PAPER NUMBER

2192

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,050

Applicant(s)

PETERKA ET AL.

Examiner

Chuck O. Kendall

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7, 9, 10, 12 and 14 - 24 is/are pending in the application.
- 4a) Of the above claim(s) 4, 8, 11, 13, 25 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9, 10, 12 and 14 - 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

1. This action is in response to the application filed 12/29/05.
2. Claims 1 – 3, 5 – 7, 9,10,12 and 14 –24 have been amended.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 3, 5, 21 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills USPN 6,055,560 (art of record) in view of Schwaderr et al. USPN 6,393,96 B1 (hereinafter "Schwderr", art being made of record).

Regarding claim 1, Mills discloses, a method A television set-top terminal (FIG1, set top box. 108), comprising:

a computer readable, medium having computer program code (2:55 – 57) ; and
means for executing said computer program code to implement an Application Programming Interface (API) wherein: (FIG. 2, API 152 and at 5:30 – 32);

application data which defines applications is recovered at the terminal according to locators associated with the applications (5:57-64, see panel stacking and back track (recover));

the applications are registered and installed at the terminal (8:2-6, see install and download, also see 12:20 – 30 for update);

the API enables running and subsequent stopping of the applications (6:5-10, see stop button); and

the API enables the retrieval of the applications as broadcasts software applications (4:60 – 65, see queue and broadcast, also see 8:15 – 20 for retrieving);

the API enables pausing of the applications once they are running, and subsequent resuming of the applications (5:10 – 15, see suspension and resume).

Mills doesn't expressly disclose the means for executing said computer program code being located in said set-top terminal. However, Schwaderr in analogous art and similar configuration of a set-top terminal discloses an intelligent communication device (Abstract) and independent program, comprising an interactive application (32), which runs on the set top box and accesses one or more servers to send and receive information (6:24 – 30). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine, Mills and Schwaderr because, it would enable the set-top box to function more independently (Schwaderr, Abstract).

Regarding claim 2, the terminal of claim 1, wherein: a user is notified of the presence of the applications after registration and installation thereof (Mills, Col. 19: 23 – 25).

Regarding claim 3, the terminal of claim 1, wherein: said API enables the retrieval of the applications as downloadable software applications (Mills, 8:3 – 6, see “retrieves appropriate panels to download”).

Regarding claim 5, the terminal of claim 1, wherein:
said API is independent of an operating system and hardware of the terminal (Mills, 5:32 – 36, see “ without knowing the database language or which type of database is being used...).

Regarding claim 21, the method version of claim 1, see rationale as previously discussed above.

Regarding claim 22, the method version of claim 2, see rationale as previously discussed above.

5. Claims 6,7, 9, 10, 12,14 – 20, 23 & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills USPN 6,055,560 (art of record) in view of Schwaderrer et

al. USPN 6,393,96 B1 (hereinafter "Schwaderrerr", art being made of record) and further in view of ITU-T/ ISO documents (hereinafter "ISO").

Regarding claim 6, Mills as modified by Schwaderrerr discloses a television set-top terminal (FIG.5, 108), comprising:

a computer readable medium having computer program code (2:55 – 57); and
means for executing said computer program code to implement an Application Programming Interface (API) wherein:

application data which defines applications is recovered at the terminal according to locators associated with the applications (5:57-64, see panel stacking and back track (recover));

the applications are registered and installed at the terminal (8:2-6, see install and download); and

the API enables particular ones of the applications to advertise their respective states to other applications (5:20 – 25). Although, Mills and Schwaderrerr doesn't explicitly disclose providing an ITU-T X.731 based mechanism for monitoring and controlling the applications, wherein said ITU-TX.731 is an international standard which defines management states, status codes and state transitions for manageable objects, he does disclose a telecommunication system utilizing X. 25 an earlier standard, see FIG. 5 and FIG. 6, 116, and associated text. However, ISO shows on page 4, that the X.731 is a Generic model for state management functions and has been around since (01/92).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Mills and Swarderrerr with ISO because, ITU-TX. 731 is a generic model for state management and would have enabled the system to be configured to more efficiently manage the application.

Regarding claim 7, the terminal of claim 6, wherein:

a user is notified of the presence of the applications after registration and installation thereof (Mills, 5:20 – 25, see current state).

Regarding claim 9, the terminal of claim 6, wherein:

said API enables at least one of the other applications to access the advertised state of at least one of the particular advertising applications (Mills, 5:20 – 25, see current state).

Regarding claim 10, the terminal of claim 6, wherein:

said API enables retrieval of version information associated with the applications (Mills, 8:1 – 5, see matching and retrieving appropriate panels to download).

Regarding claim 12, the terminal of claim 6, wherein: API enables verification of the integrity of all of the applications (Mills, 15:5 – 10, see “set top enabling code verifies”).

Regarding claim 14, the terminal of claim 6, wherein:

said API enables administrative locking and unlocking of the applications (Mills, 8:62 – 67, see lock bit).

Regarding claim 15, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective alarm statuses thereof to other ones of the applications (Mills, 7: 12 – 15, see “ video information is then provided to the set top box 108 for purpose of display on the television 106”).

Regarding claim 16, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective availability statuses thereof to other ones of the applications (Mills, 5:20 – 25, see current state).

Regarding claim 17, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective procedural statuses thereof to other ones of the applications (Mills, 7: 12 – 15, see “ video information is then provided to the set top box 108 for purpose of display on the television 106”).

Regarding claim 18, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective operational states thereof to other ones of the applications (Mills, 7: 12 – 15, see “ video information is then provided to the set top box 108 for purpose of display on the television 106”).

Regarding claim 19, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective administrative states thereof to other ones of the applications (Mills, 7: 12 – 15, see “ video information is then provided to the set top box 108 for purpose of display on the television 106”).

Regarding claim 20, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective usage states thereof to other ones of the applications (Mills, 5:20 – 25).

Regarding claim 23, the method version of claim 6, see rationale as previously discussed above.

Regarding claim 24, the method version of claim 7, see rationale as previously discussed above.

Response to Arguments

6. Applicant's arguments with respect to claims 1 – 3, 5 – 7, 9,10,12 and 14 –24 have been considered but are moot in view of the new ground(s) of rejection.

Regarding newly amended limitations Schwarderr USPN 6,393,496 has been applied to show limitations.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-2723698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-2723695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ck.



TUAN DAM
SUPERVISORY PATENT EXAMINER